

REMARKS/ARGUMENTS

A Final Office Action was issued October 18, 2007. Applicant filed an Amendment January 18, 2008 responsive to the Final Office Action. However, the Amendment was not entered and an Advisory Action was subsequently issued January 28, 2008. Accordingly, Applicant hereby submits the following Preliminary Amendment, concurrently with an RCE request.

Status of the Claims:

Claims 1-8 and 10 were pending in the present application before the amendment as set forth above. By this preliminary amendment, claims 1-7 and 10 are amended, and new claims 11-14 are added.

The October 18, 2007 Office Action:

In the October 18, 2007 Final Office Action, the Primary Examiner rejected claims 1 to 6 and 10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims were also rejected under 35 U.S.C. §101 as reciting a use without setting forth any steps involved in the process. Furthermore, claim 6 was objected to under 37 C.F.R. §1.75 as being a substantial duplicate of claim 10. The Primary Examiner rejected claims 1 to 8 and 10 under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent JP 10121205 (hereinafter "JP '205"), based on an English translation of the Abstract. Claims 1 to 8 and 10 were also rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,201,231 to Harpster (hereinafter "Harpster").

Applicant appreciates the Primary Examiner's careful review of the application.

In response, without acquiescing to the assertions made therein, as set forth above, claims 1-7 and 10 have been amended, and new claims 11-14 are added.

Support for the amendment set forth above can be found in the disclosure as originally

filed, and particularly in paragraphs beginning on page 4, lines 5-30 through page 7, lines 1-8 of the specification and in Figs. 2 and 3 of the drawings. Applicant asserts that no new matter is added.

Any amendments to the claims not specifically referred to herein as being included for the purpose of distinguishing the claims from cited references are included for the purpose of clarification, consistence and/or grammatical/spelling correction only.

It is now believed that the application is in condition for allowance and such allowance is respectfully requested.

The following remarks herein are considered to be responsive thereto.

Claim Objections

Claim 6 was objected to under 37 C.F.R. §1.75 as being a substantial duplicate of claim 10. In response, as set forth above, claim 6 has been amended to recite “The process according to claim 1, wherein the alloy is in accordance with SUS436L.” This claim depends from independent claim 1, which recites, in part, “A process of manufacturing kitchen utensils from an alloy.” Claim 10 has been amended to recite “The kitchen utensil according to claim 7, wherein the alloy is in accordance with SUS436L.” This claim depends from independent claim 7, which recites, in part, “A kitchen utensil usable for an induction cooker or kitchenware that requires high heat conductivity and magnetoconductivity.” It is now believed that the claim objections have been overcome.

35 U.S.C. §101 Rejections

In the October 18, 2007 Final Office Action, claims 1-6 and 10 were rejected under 35 U.S.C. §101. Specifically, the Primary Examiner stated that “the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process.” In response, as set forth above, claims 1-6 have been amended to recite a process of manufacturing. For example, claim 1 now recites, in part, “A process of manufacturing kitchen

utensils from an alloy.” Moreover, claim 10 has been amended to depend from claim 7. It is now believed that the rejections under 35 U.S.C. §101 have been overcome.

35 U.S.C. §112 Rejections

In the October 18, 2007 Final Office Action, claims 1-6 and 10 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Primary Examiner stated that these claims “provide for the use of an alloy to make kitchen utensils, but, since the claim[s] [do] not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass.” In response, as set forth above, claims 1-6 and 10 have been amended to satisfy the written description requirement and to distinctly recite the present invention. For example, amended claim 1 now recites, in part, “A process of manufacturing kitchen utensils from an alloy.” Moreover, claim 10 has been amended to depend from claim 7. It is now believed that the rejections under 35 U.S.C. §112 have been overcome.

35 U.S.C. §103 Rejections

In the October 18, 2007 Final Office Action, the Primary Examiner rejected claims 1 to 8 and 10 under 35 U.S.C. §103(a) as being unpatentable over JP ‘205. Claims 1 to 8 and 10 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Harpster. Applicant respectfully traverses these rejections for at least the reasons set forth below.

Claims 1-6:

As set forth above, among other unique limitations, amended claim 1 recites a “process of manufacturing kitchen utensils from an alloy, comprising:

- a. ***stamping the alloy on a punch*** to form wafers of a predetermined diameter;
- b. ***oil rolling the alloy***;

c. *forming predetermined dimensions* for the kitchen utensils *using an elongation process on the alloy*; and

d. *trimming and surface treating the alloy*,

wherein the alloy has a composition (in wt%) *consisting of: Cr 16-19, C \leq 0.025, Si \leq 1.00, Mn \leq 1.00, N \leq 0.02, Ni \leq 0.60, Ti \leq 0.75, Mo 0.75-1.50 and the balance of Fe.*

(Emphasis added.)

According to MPEP §2111.03, the use of the transitional phrase “*consisting of*” *excludes any element, step, or ingredient not specified in the claim.* That is, the alloy recited in amended claim 1 has a composition that *contains only the elements of Cr, C, Si, Mn, N, Ni, Ti, Mo and Fe, consisting of (in wt %) Cr 16-19, C \leq 0.025, Si \leq 1.00, Mn \leq 1.00, N \leq 0.02, Ni \leq 0.60, Ti \leq 0.75, Mo 0.75-1.50 and the balance of Fe.*

In contrast, as understood by Applicant, JP ‘205 discloses a steel plate consisting of “C of 0.02 wt.% or less, Si of 1.0 wt.% or less, Mn of 1.0 wt.% or less, *P of 0.08 wt.% or less*, *S of 0.01 wt.% or less*, *Al of 0.30 wt.% or less*, Cr of 11-50 wt.%, Mo of 5.0 wt.% or less, and N of 0.03 wt% or less,” where the “remainder consists of iron and irreversible impurity.” (JP ‘205, Abstract (English translation), lines 1-7.) That is, JP ‘205 *does not* teach or suggest a process of manufacturing kitchen utensils from an alloy, wherein the alloy has *Ni \leq 0.60 and Ti \leq 0.75* as required by amended claim 1. Moreover, JP ‘205 *requires additional elements P, S, and Al*, which are intentionally excluded from the composition as recited in amended claim 1 of the present invention. Aluminum, for example, is expressly described in the specification as a particularly undesirable element to add, due to its high cost and the difficulties associated with processing it. (Page 1, lines 26-35 and page 2, lines 1-5 of the specification as originally filed.) Therefore, JP ‘205 *does not* teach or suggest a process of manufacturing kitchen utensils from an alloy, where *the alloy has a composition (in wt%) specifically consisting of “Cr 16-19, C \leq 0.025, Si \leq 1.00, Mn \leq 1.00, N \leq 0.02, Ni \leq 0.60, Ti \leq 0.75, Mo 0.75-1.50 and the balance of Fe,”* according to amended claim 1 of the present invention. Furthermore, JP ‘205 does not teach or suggest a process of manufacturing kitchen utensils from an alloy, wherein the process

comprises *“stamping the alloy on a punch to form wafers of a predetermined diameter; oil rolling the alloy; forming predetermined dimensions for the kitchen utensils using an elongation process on the alloy; and trimming and surface treating the alloy,”* as required by amended claim 1 of the present invention.

Therefore, JP ‘205 does not teach or suggest a process of manufacturing kitchen utensils from an alloy having all the limitations of amended claim 1 of the present invention.

With regard to Harpster, as understood by Applicant, it discloses stainless steels “used in decorative applications,” consisting of, by weight, “about 14 to 25 percent of Chromium, up to a maximum of about 0.30 percent of Carbon, up to about 1.25 percent of Manganese, a maximum of 1.1 percent of Silicon, 0.25 to 1.25 percent of Molybdenum, with the remainder Iron and incidental impurities.” Harpster further states that “where such elements as *phosphorous and sulfur* are present, they do not exceed about 0.04 and 0.03 percent respectively.” (Harpster, Column 1, lines 8-11 and 63-72.) That is, Harpster ***does not*** teach or suggest a process of manufacturing kitchen utensils from an alloy, wherein the alloy has $N \leq 0.02$, $Ni \leq 0.60$, and $Ti \leq 0.75$ as required by amended claim 1. Moreover, Harpster can require ***additional elements, such as P and S***, which are lacking from the composition as recited in amended claim 1 of the present invention. Therefore, Harpster ***does not*** teach or suggest a process of manufacturing kitchen utensils from an alloy, where the alloy ***has a composition (in wt%) specifically consisting of “Cr 16-19, $C \leq 0.025$, $Si \leq 1.00$, $Mn \leq 1.00$, $N \leq 0.02$, $Ni \leq 0.60$, $Ti \leq 0.75$, $Mo 0.75-1.50$ and the balance of Fe,”*** as required by amended claim 1 of the present invention. Furthermore, Harpster ***does not*** teach or suggest a process of manufacturing kitchen utensils from an alloy having this composition, wherein the process comprises *“stamping the alloy on a punch to form wafers of a predetermined diameter; oil rolling the alloy; forming predetermined dimensions for the kitchen utensils using an elongation process on the alloy; and trimming and surface treating the alloy,”* as required by amended claim 1 of the present invention.

Therefore, Harpster does not teach or suggest a process of manufacturing kitchen utensils from an alloy having all the limitations of amended claim 1 of the present invention.

For at least the foregoing reasons, independent claim 1, as amended, is patentable under 35 U.S.C. §103(a) over JP '205 and Harpster..

Accordingly, claims 2-6, which depend from now allowable amended claim 1, are patentable over JP '205 and Harpster at least for this reason.

Claims 7, 8, and 10:

As set forth above, among other unique limitations, amended claim 7 recites “A kitchen utensil usable for an induction cooker or kitchenware that requires high heat conductivity and magnetoconductivity, made of an alloy ***having a composition (in wt%) consisting of: Cr 16-19, C ≤ 0.025, Si ≤ 1.00, Mn ≤ 1.00, N ≤ 0.02, Ni ≤ 0.60, Ti ≤ 0.75, Mo 0.75-1.50 and the balance of Fe.***” (Emphasis added.)

Incorporating herein the reasons set forth above why amended claim 1 is patentable, Applicant respectfully submits that independent claim 7, as amended, is patentable under 35 U.S.C. §103(a) over JP '205 and Harpster.

Claims 8 and 10, which depend from allowable amended claim 7, are patentable for at least this reason.

New Claims 11-14:

New claims 11-14, which depend from now allowable claim 1, are introduced to conform the claims to the embodiments of the present invention as disclosed in the specification as originally filed. Accordingly, they are allowable for at least this reason.


CONCLUSION

Applicants respectfully submit that the foregoing Preliminary Amendment and Response place this application in condition for allowance. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call the undersigned at 404.495.3678.

Respectfully submitted,

MORRIS, MANNING & MARTIN, LLP

February 19, 2008



Tim Tingkan Xia
Attorney for the Applicants on the Record
Reg. No.: 45,242

Morris, Manning & Martin, LLP
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326-1044
Telephone: 404.233.7000
Customer No. 24728